

CHAPTER 190: WATER

Section

Department of Waterworks

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Statutory reference:

- Firefighting and fire prevention powers, see I.C. 36-8-2-3
- Municipal home rule, see I.C. 36-1-3-1 et seq.
- Department of Waterworks, see IC 8-1.5-4 et seq.

DEPARTMENT OF WATERWORKS

§ 190.01 ESTABLISHMENT OF THE DEPARTMENT OF WATERWORKS.

(A) **Creation.** There is hereby created for the town a Department of Waterworks, to be controlled by a Board of Directors, hereinafter referred to as the "Board." The Board shall be officially known as the Board of Waterworks Directors of the Town of Highland.

(B) **Composition; appointment; terms.**

(1) The Board of Waterworks Directors shall consist of five directors to be appointed by the President of the Town Council, as the municipal executive. Not more than three of the directors may be of the same political party. The initial terms of the directors are as follows:

(a) Two directors shall be appointed for a term ending on the first Monday in January, 2002;

(b) Two directors shall be appointed for terms ending on the first Monday in January, 2003;

(c) One director shall be appointed for terms ending on the first Monday in January, 2004.

(2) At the expiration of the respective terms of each of the directors originally appointed, the respective successor directors shall be appointed for a term of three years, commencing on the first Monday of January, and until a successor is appointed and qualified. The appointments are at the pleasure of the appointing authority. The President of the Town Council, as the municipal executive, may remove a director at any time when, in his judgment, it is for the best interests of the department

and the town. The Town Council President shall have the authority to fill all vacancies which may arise, for any reason. The appointment will be for the remainder of the unexpired term of the vacant position. Directors may succeed themselves.

(C) Special taxing district. The Department of Waterworks has jurisdiction over a special taxing district (referred to as "the Waterworks District" in this chapter) that consists of all the territory within the corporate boundaries of the town, or the territory served by the waterworks, if larger than the corporate boundaries for any reason.

(Ord. 1142, passed 5-22-00; Am. Ord. 1162.1142-A, passed 1-22-01)

§ 190.02 ADVISORY MEMBERS.

(A) The Board of Directors shall further have three advisory directors, which shall consist of the following:

(1) A representative of the Fire Department, to be nominated by the Fire Chief and approved by the Town Council;

(2) The Clerk-Treasurer or his designee; and

(3) The Public Works Director.

(B) These members shall act in an advisory capacity only and shall have no voting powers.

(Ord. 1142, passed 5-22-00)

§ 190.03 OATH; BOND.

Before entering upon their duties, each director of the Board of Waterworks shall take and subscribe to the oath of office before a person duly authorized to administer oaths in the state, as required by law, and each of the directors shall give a bond which shall be fixed by the Clerk-Treasurer of the town, and is subject to his approval. Such bond shall be conditioned upon the faithful and honest discharge of the duties of the directors, and the premiums thereon shall be paid by the town.

(Ord. 1142, passed 5-22-00)

§ 190.04 DUTY OF CLERK-TREASURER TO COLLECT WATER CHARGES.

It shall be the duty of the Clerk-Treasurer of the town to be charged with the collection of all rates and charges and enforce the payment thereof.

(Ord. 1142, passed 5-22-00)

§ 190.04.1 AUTHORITY FOR LOANS TO SEWAGE UTILITY OR CIVIL GOVERNMENT; CASH RESERVE FUND

(A) There is hereby established for the municipal water utility a **cash reserve fund** as provided in IC 8-1.5-3-11, that shall be carried on the records of the utility by providing for either monthly contributions or transfers to the cash reserve fund of surplus earnings of the utility, as may be identified by the board of waterworks directors.

(B) That "surplus earnings" shall be defined as those cash earnings remaining after provision has been made to take care of current obligations, including expenses of the operating and maintenance fund, the water improvement fund, and the bond and interest fund, whether or not it is a revenue bonds or special taxing district bonds and any other priority fund requirements that may be fixed by law;

(C) The funds on deposit to the credit of the fund created by this section, may be used to make loans to department of public sanitation as a utility also owned by the Town of Highland, for periods not to exceed five (5) years, at any interest rate. The repayment of the loan and interest shall be returned to the cash reserve fund.

(D) The funds on deposit to the credit of the fund created by this section, may be used to make loans to the civil government of Highland, by the Board of Waterworks Directors provided the following:

- (1) the waterworks utility has on hand a surplus of cash exceeding by at least the amount loaned the sum of all amounts required to pay the indebtedness of the utility falling due during the current calendar year and the following year;
- (2) the waterworks utility has on hand the amount necessary to meet current expenses during the year; and
- (3) the waterworks utility has on hand the amount necessary to pay for improvements contemplated to be made during the current calendar year minus the estimated receipts during the calendar year.
- (4) a loan made to the civil government may not be made for a sum in excess of fifty percent (50%) of the amount estimated to be collected from anticipated taxes of the Town.
- (5) Pursuant to IC 8-1.5-3-12, the loan made to the civil government:
 - (a) must be evidenced by an obligation of the municipality;
 - (b) must be signed by the executive;
 - (c) must be made due on or before thirty (30) days after the last day for the payment of anticipated taxes; and
 - (d) may bear interest at any rate as determined by the board of waterworks directors, payable at maturity.

§ 190.05 BOARD; POWERS AND DUTIES.

(A) The Board has the following powers and duties prescribed by I.C. 8-1.5-3-4;

(1) The Board has general supervisory powers over the waterworks, with responsibility for the detailed supervision of the water utility to be vested in its Superintendent, who is responsible to the Board for the business and technical operation of the utility.

(2) The Board shall:

- (a) Fix the number and compensation of employees;
- (b) Adopt rules governing the appointment of employees, including making proper classifications and rules to:
 1. Determine the eligibility of applicants;
 2. Determine by competitive examination the relative fitness of applicants for positions;

secured; 3. Establish eligible lists arranged according to the ratings

ratings; and 4. Provide for the appointment of those having the highest

5. Provide for the promotion of employees.

(c) Subject to I.C. 36-4-9-2, appoint a Superintendent or Manager of the water utility under its control, who is responsible to the Board for the business and technical operation of the utility; the Board shall make the appointment on the basis of fitness to manage the particular utility to which he is to be assigned, taking into account his executive ability and his knowledge of the utility industry;

(d) Subject to I.C. 36-4-9-12, hire attorneys when required for the operation of the utility;

(e) Hire professional or expert personnel when required for the operation of the utility;

(f) Appropriate, lease, rent, purchase, and hold all real and personal property of the utility;

(g) Enter upon lands for the purpose of surveying or examining the land to determine the location of any plant or appurtenances;

(h) Award contracts for:

1. The purchase of capital equipment;

2. The construction of capital improvements; or

3. Other property or purposes that are necessary for the full and efficient construction, management, and operation of the water utility.

(i) Adopt rules for the safe, economical, and efficient management and protection of the water utility;

(j) Deposit at least weekly with the municipal fiscal officer all money collected from the water utility, to be kept in a separate fund, subject to the order of the Board if the municipal fiscal officer is not directly charged with the duty of collecting rates and charges; and

(k) Make monthly reports to the fiscal officer of the receipts and disbursements of money belonging to the water utility, and an annual report of the condition of the utility.

(B) The Board may purchase by contract electricity, water, gas, power, or any other commodity or service, for the purpose of furnishing the commodity or service to the patrons of the municipally-owned utility or to the municipality itself.

(C) If the Board wants to purchase the commodity or service from a public utility and the parties cannot agree on a rate or charge to be paid for it, either party may

apply to the commission or other appropriate state or federal regulatory agency to establish a fair and reasonable rate or charge to be paid for the commodity or service.

(D) The Board may discontinue water service by a waterworks to:

- (1) A water consumer; or
- (2) Any property;

upon failure by the water consumer or the property owner to pay charges legally due for sewer or sewage disposal plant service. However, the water service may not be discontinued for nonpayment of sewer or sewage disposal plant service charges until the charges have been due and unpaid for at least 30 days.

(E) Before water service is discontinued under division (D) of this section, the Board must give written notice to the water consumer or property owner of its intention to discontinue water service if the unpaid sewer or sewage disposal plant service charges are not paid before a date specified in the notice. The notice must be mailed not less than ten days before water service is to be discontinued and addressed to the water consumer or the property owner at his last known address. (Ord. 1142, passed 5-22-00)

§ 190.06 ADDITIONAL POWERS AND DUTIES.

(A) In addition, the Board may:

- (1) Hold hearings following public notice;
- (2) Make findings and determinations;
- (3) Design, order, contract for, or construct pumping plants or stations, filtration plants, reservoirs, water mains, hydrants, and other equipment, structures, and appurtenances, and rebuild, equip, improve, extend, and repair plants, equipment, and structures;
- (4) Build or have built all roads, levees, walls, or other structures that may be necessary or desirable in connection with waterworks;
- (5) Make all necessary or desirable improvements of the grounds and premises under its control;
- (6) Issue and sell bonds for the construction, alteration, addition, or extension to the waterworks, in the manner prescribed by law, including the provisions of I.C. 8-1.5-2;

(B) The Board shall furnish an adequate supply of water to consumers within the Waterworks District.
(Ord. 1142, passed 5-22-00)

§ 190.07 RATES AND CHARGES; BUDGETING.

(A) Pursuant to I.C. 8-1.5-4-1.5(c), **the board of directors of the department of waterworks shall operate as the board for the purposes of IC 8-1.5-3-4 and IC 8-1.5-3-8.**

(B) The Board shall submit a budget of its financial needs for the next year in the detail it requires.

(C) The Board shall recommend to the **Town Council** reasonable and just rates and charges for services to the patrons of the water utility.

(D) The rates and charges made by a municipality for a service rendered or to be rendered, either directly or in connection therewith, must be nondiscriminatory, reasonable, and just.

(E) REASONABLE AND JUST RATES AND CHARGES FOR SERVICES means rates and charges that produce sufficient revenue to:

(1) Pay all the legal and other necessary expenses incident to the operation of the utility, including:

- (a) Maintenance costs;
- (b) Operating charges;
- (c) Upkeep;
- (d) Repairs;
- (e) Depreciation; and
- (f) Interest charges on bonds or other obligations, including leases.

(2) Provide a sinking fund for the liquidation of bonds or other obligations, including leases;

(3) Provide a debt service reserve for bonds or other obligations, including leases, in an amount established by the municipality, not to exceed the maximum annual debt service on the bonds or obligations or the maximum annual lease rentals;

(4) Provide adequate money for working capital;

(5) Provide adequate money for making extensions and replacements to the extent not provided for through depreciation in division (E)(1); and

(6) Provide money for the payment of any taxes that may be assessed against the utility.

(F) All approved rates and charges must produce an income sufficient to maintain the utility property in a sound physical and financial condition to render adequate and efficient service. Rates and charges too low to meet these requirements are unlawful.

(G) The Board may recommend for the consideration of the legislative body rates and charges sufficient to include a reasonable return on the utility plant of the municipality, **subject to the provisions of this chapter**.

(H) Rates and charges established under this chapter are subject to the approval of:

- (1) The Board of Waterworks Directors by proper enactment; and

- (2) The Town Council in accordance with the procedures set forth in IC 8-5-3-8.1 and Section § 190.07(I).

(I) Rates and charges shall be recommended by the Board of Waterworks Directors, after it conducts a proper rate study. The Board shall transmit its recommendation to the Town Council for rates and charges in the form of a proposed ordinance. Before the rates and charges may go into effect, the following procedures must take place:

(1) After the introduction of the ordinance establishing the rates and charges under this chapter, but before the ordinance is finally adopted, the municipal legislative body shall hold a public hearing at which users of the waterworks, owners of property served or to be served by the waterworks, and other interested persons may be heard concerning the proposed rates and charges.

(2) Notice of the hearing, setting forth the proposed schedule of rates and charges, shall be:

- (a) published in accordance with IC 5-3-1 (IC 5-3-1-1 through IC 5-3-1-9);
- (b) mailed to owners of vacant or unimproved property if the ordinance includes a fee for water service to vacant or unimproved property; and
- (c) mailed to users of the waterworks located outside the municipality's corporate boundaries.

(3) The notice may be mailed in any form so long as the notice of hearing is conspicuous. The hearing may be adjourned from time to time.

(4) After the hearing, the municipal legislative body shall adopt the ordinance establishing the rates and charges, either as originally introduced or as modified. A copy of the schedule of rates and charges adopted shall be kept on file and available for public inspection in the offices of the board and the municipal clerk.

(J) The rates and charges established for any class of users or property shall be extended to cover any additional property that is subsequently served and falls within the same class, without any hearing or notice.

(K) The municipal legislative body may change or readjust the rates and charges in the same manner as they were established.

(L) Rates and charges collected under this chapter are considered revenues of the waterworks.

§ 190.08 AUTHORITY TO ADOPT RULES; RULES AND REGULATIONS ON FILE.

(A) Pursuant to its authority and subject to law, the Board shall adopt rules for the safe, economical, and efficient management and protection of the water utility.

(B) A copy of all rates, rules and regulations under which water service will be rendered shall be filed for the convenience of the public in the general office of the utility and the Office of the Clerk-Treasurer.

(C) In addition to the authority to adopt such other rules and regulations that the Board may adopt from time to time, the Board of Waterworks shall have the

authority to establish rules and regulations regulating the days, time periods and hours for lawn sprinkling within the town.

(D) Any person, firm or corporation who violates or fails to comply with the rules and regulations of the Board of Waterworks concerning the restrictions and regulations of lawn sprinkling shall be punished by a fine not to exceed \$100. Every day any violation of this section continues shall constitute a separate offense.

(E) Any person, firm or corporation who violates or fails to comply with any other of the rules and regulations of the Board of Waterworks may be punished by a fine not to exceed \$2,500. Every day any violation of this section continues shall constitute a separate offense.

(F) The Board shall have the authority to enforce its rules and regulations according to rules it may promulgate, including bringing suit in the name of the municipality for all legal or equitable relief, provided:

(1) That a majority vote of the entire membership of the Board shall be sufficient to pass and adopt any rule, regulation, order or resolution, unless a greater vote is required by statute, ordinance or rule;

(2) That a two-thirds vote of the entire membership of the Board, after unanimous consent of the members present to consider the rule, is required to pass and adopt a rule of the Board of Waterworks on the same day or at the same meeting at which it is introduced.

(Ord. 1142, passed 5-22-00)

§ 190.09 SERVICES RENDERED TO MUNICIPALITY, PAYMENT.

(A) The cost and value of maintaining hydrants and other facilities for fire protection shall be excluded from the charges against the municipality and shall be recovered from the other customers of the waterworks beginning no sooner than January 1, 2005;

(B) The change in the recovery of current revenue authorized by this section shall be reflected in a schedule of new rates to be filed with the commission at least thirty (30) days before the time the schedule of new rates is to take effect;

(C) The new schedule of rates shall:

- (1) eliminate fire protection charges billed directly to the governmental unit, other than charges for the construction cost for new hydrants installed on and after the date specified in the ordinance; and
- (2) increase the rates charged each customer of the utility, based on equivalent meter size, by an amount equal to:
 - (a) the revenues lost from the elimination of such fire protection charges; divided by
 - (b) the current number of equivalent five-eighths (5/8) inch meters.

§ 190.10 STATE LAW ADOPTED.

In addition to the foregoing, the provisions of I.C. 8-1.5-4 et seq., as amended, concerning the creation and operation of a Department of Waterworks, is hereby adopted by the Town Council and incorporated herein by reference, so as to make such statutes and all amendments thereto effective and operative as to the town.

§ 190.11 SCHEDULE OF RATES AND CHARGES

Preamble. This schedule of rates and charges operates in concert with and complimentary to the Rules and Regulations of the Waterworks as adopted by the Board of Waterworks Directors. Any conflict between rates and charges in set forth the Rules and Regulations of the Waterworks and this chapter shall be resolved in favor of the rates and charges set forth in this section.

(A) *Schedule of Recurrent Usage ratio and charges.* For the use of and the service rendered by the water utility of the Town of Highland, Indiana, the following rates and charges are established based upon the amount of water supplied by said water utility.

(1)	<u>Consumption Per Month</u>	<u>Per 1,000 Gallons</u>
	First 3,000.....	\$ 2.25
	Next 2,000.....	2.24
	Next 10,000.....	1.76
	Next 20,000.....	1.61
	Next 40,000.....	1.43
	Over 75,000.....	1.29

(2) Minimum Monthly Charges

Each user shall pay a minimum charge in accordance with the following applicable size of meter installed for which the user will be entitled to the quantity of water set out in the above schedule of rates.

<u>Size of Meter</u>	<u>Minimum Gallons Allowed</u>	<u>Monthly Rates</u>
5 / 8"	3,000	\$ 6.75
3 / 4"	5,376	11.89
1"	8,948	18.18
1-1 / 4"	14,090	27.23
1-1 / 2"	20,661	37.94
2"	40,458	68.83
3"	103,313	154.75
4"	201,313	281.17
6"	470,647	628.81

(3) **Fire Protection Service Surcharge**

These charges are to be recovered from the customers of the waterworks as a monthly fee to be charged with the other charges on the utility bill, pursuant to IC 8-1.5-4-14(b):

Size of Meter	Monthly Rates
5 / 8"	\$ 2.26
1"	5.64
1 1/4 "	9.02
1 1/2"	11.28
2"	18.04
3"	33.83
4"	56.38

6"	112.77
8"	180.43

Private Fire Protection

Fire Sprinkler connection - per annum:

4" connection.....	\$ 187.20
6" connection.....	421.90
8" connection.....	563.05
10" connection.....	843.85
12" connection.....	1,405.35

(4) Temporary Users

Temporary users of hydrants shall be charged for the water used based on the rates set forth in the Schedule of Rates and Charges most currently in effect and prevailing.

(B) **Delinquent payment penalty.** All bills for water service not paid on the due date thereof, as stated in such bills, shall be subject to a collection or deferred payment charge of ten percent (10%) on the first three dollars (\$3.00) and three percent (3%) on the excess over three dollars (\$3.00). *Also see late payment charge.* (Confer Waterworks Rule 2.2)

(C) *Schedule of nonrecurring fees and charges.* The following additional fees and charges are set forth as follows:

(1) Service Deposit:

Residential.....	\$ 30.00
Small Business.....	50.00
Large business (Car wash, Laundromat, restaurant).....	200.00
(Confer Waterworks Rule 1.8)	

(2) Construction Water Use:

Without meter. See building inspector for charges
(Confer Waterworks Rule 1.10)

(3) Service Charge for Meters:

3/4" (5/8")	Meter Cost plus	50.00
1"	Meter Cost plus	50.00
1 1/2"	Meter Cost plus	50.00
For larger meters.....	Meter Cost plus	50.00

(4) Tapping / Inspection Charge

Residential	\$200.00
Commercial/Industrial	\$330.00

(5) Meter Testing (Residential).....\$ 35.00 **Meter testing all others..... Actual cost plus \$15.00**

(Confer Waterworks Rule 1.16(j))

(6) Read-O-Matics:

(7) Frozen or Carelessness/Repair of Meter:

Fee scheduled by water department (Confer Waterworks Rule 1.16 (e))

(8) **Late or delayed payment charges. A late or delayed payment penalty may be charged for unpaid balances, which may remain after one billing cycle following the delinquency.**

Three percent (3%) per month on unpaid balance

Service Restoration Charges:

Turn Off Charge\$ 15.00

Turn On Charge\$ 15.00

(Confer Waterworks Rule 1.17.1(b))

Urgent service restoration surcharge:\$ 50.00

In addition to the fees above, a surcharge in the identified amount will be charged to restore water services Monday through Thursday after 3:00 p.m.

(9) **Returned or NSF Checks:.....Actual bank charge plus \$5.00 adm. fee**
(Confer Waterworks Rule 1.17.1 (h))

(10) Maintenance of Service Pipes & Meter Boxes:
Water wastage service fee after grace period\$20 per day
(Confer Waterworks Rule 1.14)

Amended through July 13th 2009.